

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: SATO ET AL. Serial No.: 10/561,166 Filed: December 16, 2005 For: PRESSURE MUSCLE STRENGTH INCREASING APPARATUS, CONTROL DEVICE, AND METHOD BEING CARRIED OUT BY CONTROL DEVICE	 Art Unit: 3764 Examiner: MATHEW, FENN C.
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REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed on June 26, 2007, Applicants respectfully request reconsideration of the above-identified application for the reasons set forth below.

A fee for a one month extension of time is believed to be due, as detailed in the attached documents. However, any extension of time necessary to prevent abandonment is hereby requested, and any fee necessary for consideration of this response is hereby authorized to be charged to Deposit Account Number 50-2613.

In the Office Action, the Examiner objected to the title of the invention for including the word "Pressue," which the Examiner stated should conceivably read -Pressure-. In addition, the Examiner rejected all of the pending claims 1-16 under 35 U.S.C. § 103(a) as being unpatentable

over U.S. Patent No. 6,149,674 to Borders ("Borders"). Applicants respectfully traverse this objection and rejection.

Applicants' representative wishes to thank Examiner Mathew for the courtesies extended during the telephone interview conducted on October 24, 2007 and October 25, 2007. The substance of the interview is incorporated into the following remarks.

Regarding the objection to the title, as discussed in the interview, Applicants filed a Request for Corrected Filing Receipt on March 24, 2006 ("Request") seeking to change the title mentioned in the Official Filing Receipt to the title mentioned on the Declaration and Power of Attorney document originally filed with the application on December 16, 2005, *i.e.*, PRESSURE MUSCLE STRENGTH INCREASING APPARATUS, CONTROL DEVICE, AND METHOD BEING CARRIED OUT BY CONTROL DEVICE. Page 1 of that Request set forth the new corrected title. Applicants did not receive a corrected filing receipt. However, in light of the Examiner's objection and the title currently listed in the application data on PAIR, it appears that the title was changed, but that the new title listed the word "Pressure" incorrectly as "Pressue." Applicants note that this error may have resulted from a typographical error on the courtesy copy of the filing receipt, marked up in red and attached to the Request for the Office's convenience. Applicants nonetheless confirm that the title should read "Pressure." If the Examiner feels that the Applicant should take any further action in addition to the Request already filed, Applicants respectfully request that the Examiner indicate as such in the next communication.

Regarding the § 103 rejections, as discussed in the interview, the present invention and Borders represent fundamentally different systems, regulating different physiological aspects and regions of the human body. Borders regulates *core* body temperature during surgical procedures.

(Column 1, lines 7-9.) To control the core temperature, Borders vasodilates (*i.e.*, opens up) blood vessels of a portion of the body and applies heat at the same time, so that the increased blood flow through the dilated blood vessels carries heat to the core of the body to raise the core temperature. (Column 1, lines 21-25.) Borders vasodilates the blood vessels by applying a sleeve to a portion (*e.g.*, an extremity) of the body, which increases the blood flow by either applying a cyclical positive pressure or applying a negative pressure. (Column 3, lines 20-25.) In any case, control of the sleeve is premised upon achieving the *core body temperature*.

In contrast, the present invention increases muscle strength in the limb of a body by affixing a tight fitting device on the limb to *restrict blood flow to the distal end of the limb and beyond the tight fitting device*. (*See, e.g.*, page 2, lines 24-27; page 3, lines 12-14; and page 20, line 7 to page 21, line 6 of the present specification.) To control the pressure applied by the tight fitting device, the invention measures a quantification target associated with the state of blood flow *at a position closer to the distal end of the limb than the tight fitting device*. (*See, e.g.*, page 24, line 12 to page 25, line 10 of the present specification.) Thus, the present invention effects changes (*i.e.*, increased muscle strength) in the distal end of a limb beyond the tight fitting device, while Borders effects changes (*i.e.*, increased core body temperature) in the core of the body on a side of the sleeve opposite the distal end of the limb.

As discussed in the interview, presently pending independent claims 1, 7, 13, 14, 15, and 16 recite this patentable feature at least in terms of quantification, recited variously as quantification means or quantification segment. This quantification occurs at a position closer to the distal end of the limb than the predetermined range of muscles around which the tight fitting device is wrapped. Independent claims 13 and 16 further recite this patentable feature in the

context of a method. As agreed in the interview, Borders at least lacks clarity as to where such quantification would be positioned. Indeed, Applicants respectfully submit that Borders actually teaches away from the present invention by emphasizing an overarching objective of monitoring the *core* body temperature, which is on a side opposite to that of the distal end of the limb. Based on the lack of clarity in Borders, it was agreed in the interview that the quantification element reads over Border. On this basis, Applicants respectfully request withdrawal of the rejection of claims 1-16 under 35 U.S.C. § 103(a) in view of Borders. In addition, in light of the deficiencies in Border and in the Office Action, if the Examiner maintains the rejection of claims 1-16 based on Borders and/or other prior art references, Applicants respectfully request that the next Office Action be made non-final.

Applicants further respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness for at least claims 3-16. The Office Action makes no specific mention of claims 3-16, and fails to show (*e.g.*, through citations to the specification or figures of Borders) where Borders teaches or suggests each and every element of these claims. Accordingly, Applicants respectfully request that the rejection of claims 3-16 be withdrawn. To the extent that any pending claims stand rejected in a subsequent Office Action, Applicants respectfully request that the subsequent Office Action not be made final, due at least to the deficiencies in Borders and the lack of specificity in the cited art relied upon to reject claims 3-16.

In view of the foregoing, all of the claims in this case are believed to be in allowable condition. Should the Examiner have any questions or determine that any further action is

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desirable to place this application in condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.


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Respectfully submitted,

SATO ET AL.

Date: October 26, 2007

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